

### **Remarks/Arguments**

Claims 1-31 are pending in the application. Claims 11, 12 and 19-31 were withdrawn from consideration. Claims 1 and 13 were rejected under 35 USC §102(e) as being anticipated by U.S. Publication No. 2004/0130783 to Solomon. Claim 17 was rejected under 35 USC §103(a) as being unpatentable over Solomon in view of U.S. Patent No. 6,266,194 to Tanijiri. Moreover, claim 18 was rejected under 35 USC §103(a) as being unpatentable over Solomon in view of U.S. Patent No. 5,936,663 to Tabata. Claims 2-10 and 14-16 were objected to as being dependent from a rejected base claim, but would otherwise be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims.

The Declaration of William J. Schonlau under 37 C.F.R. §1.131 and corresponding Exhibit A provides the requisite factual evidence establishing conception and diligent reduction to practice of the present invention prior to the December 2, 2002 priority date of the Solomon reference. Specifically, Applicant prepared a written description and corresponding set of drawings within the guise of the claims of the present application on April 1, 2002 (Exhibit A), which proves conception. This disclosure was prepared eight months before the filing of the Solomon reference and was prepared nearly two and one-half years before publication of the Solomon reference. Therefore, Applicant did not have any of the information in the Solomon reference available at the time of conception.

After conception, Applicant diligently worked at reducing to practice the present invention up to and beyond the priority date of the Solomon reference. In approximately August 2002, four months before the filing of the Solomon application, Applicant disclosed the present invention to the Law Offices of Kelly Lowry & Kelley, LLP ("KLK") for the preparation of the associated provisional patent application, U.S. Application Serial No. 60/446,507. Applicant diligently worked with KLK from approximately August 2002 until the filing of the above-identified provisional application on February 10, 2003. During this time, Applicant communicated with KLK on multiple occasions to discuss revisions of the drawings, written description and drafts of the provisional application to be filed with the United States Patent and Trademark Office.

Specifically, Applicant disclosed the invention for a personal viewer system to KKK on August 29, 2002. Subsequently, and during the preparation of the above-identified provisional application, Applicant communicated with KKK on November 10, 2002 regarding revisions to the torsional scan mirror; November 30, 2002 regarding reception of the modulated optical beam, scanner drive signal and motion signals by the scanner assemblies and motion sensors to display an image through the ellipsoidal reflectors; January 20, 2003 regarding enhanced Figures 9 and 10; January 21, 2003 regarding the process for focusing wave energy emanating from the upper focus (scanning mirrors) by reflecting the light directly into the lower focus (user pupil); and again, on January 21, 2003 regarding the eccentricity of the ellipsoid used in conjunction with the present invention. Applicant's conception (Exhibit A) and diligent reduction to practice effectively antedates the Solomon reference.

It is therefore respectfully requested that the rejections to claims 1, 13, 17 and 18 be withdrawn in view of Applicant's Declaration under 37 C.F.R. §1.131 and Exhibit A, which demonstrate that Applicant conceived of and had been diligently reducing to practice the present invention up to and after the December 2, 2002 Solomon priority date. All pending claims 1-10 and 13-18 are therefore in condition for allowance. A Notice of Allowability is respectfully requested.

KELLY LOWRY & KELLEY, LLP

/Scott W. Kelley, Reg. No. 30,762/

Scott W. Kelley  
Registration No. 30,762

SWK:cw

6320 Canoga Avenue, Suite 1650  
Woodland Hills, CA 91367  
(818) 347-7900